

AMENDED IN ASSEMBLY MARCH 29, 2012

CALIFORNIA LEGISLATURE—2011–12 REGULAR SESSION

**ASSEMBLY BILL**

**No. 1697**

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**Introduced by Assembly Member Perea**

February 15, 2012

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An act to ~~amend Section 10850.4 of the Welfare and Institutions Code, relating to child abuse and neglect~~ *add Section 16501.9 to the Welfare and Institutions Code, relating to foster youth.*

LEGISLATIVE COUNSEL'S DIGEST

AB 1697, as amended, Perea. ~~Child abuse and neglect.~~ *Foster youth: placement.*

Existing law requires the ~~eustodian of records within a county child welfare agency, within 5 business days of learning that a child fatality has occurred in the county and that there is a reasonable suspicion that the fatality was caused by abuse or neglect, to release upon request specified records, subject to the redaction of certain identifying personal information, of child abuse or neglect that results in the death of a child~~ *State Department of Social Services to implement a statewide Child Welfare Services Case Management System to protect children and effectively administer and evaluate the state's child welfare services and foster care programs. Existing law requires the department to provide technical assistance to encourage and facilitate a county placement agency's evaluation of placement needs.*

*Existing law requires a county placement agency specifically to examine placements that are out of county, determine the reason the placement was necessary, and identify the additional placement resources and programs that need to be developed and available to*

*allow a child to remain within the county and as close as possible to his or her home.*

~~This bill would make a technical, nonsubstantive change to these provisions~~ *require the State Department of Social Services to designate a separate, consistent data entry field in the Child Welfare Services Case Management System for a county welfare agency to record information regarding the reasons for the placement of a child when the child is placed with a foster family agency or group home. It would also require a county welfare agency to file this information with the system when this placement is made. By increasing the duties of local officials, this bill would impose a state-mandated local program.*

*The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.*

*This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.*

Vote: majority. Appropriation: no. Fiscal committee: ~~no~~-yes.  
State-mandated local program: ~~no~~-yes.

*The people of the State of California do enact as follows:*

- 1     SECTION 1. *Section 16501.9 is added to the Welfare and*
- 2     *Institutions Code, to read:*
- 3     16501.9. (a) *The State Department of Social Services shall*
- 4     *designate a separate, consistent data entry field in the Child*
- 5     *Welfare Services Case Management System for a county welfare*
- 6     *agency for recording information regarding the reasons for the*
- 7     *placement of a child when the child is placed with a foster family*
- 8     *agency or group home.*
- 9     (b) *A county welfare agency shall file information regarding*
- 10    *the reasons for placing a child with a foster family agency or group*
- 11    *home with the system when that placement is made.*
- 12    SEC. 2. *If the Commission on State Mandates determines that*
- 13    *this act contains costs mandated by the state, reimbursement to*
- 14    *local agencies and school districts for those costs shall be made*
- 15    *pursuant to Part 7 (commencing with Section 17500) of Division*
- 16    *4 of Title 2 of the Government Code.*

1     ~~SECTION 1. Section 10850.4 of the Welfare and Institutions~~  
2     ~~Code is amended to read:~~

3     ~~10850.4. (a) Within five business days of learning that a child~~  
4     ~~fatality has occurred in the county and that there is a reasonable~~  
5     ~~suspicion that the fatality was caused by abuse or neglect, the~~  
6     ~~custodian of records for the county child welfare agency, upon~~  
7     ~~request, shall release the following information:~~

8         ~~(1) The age and gender of the child.~~

9         ~~(2) The date of death.~~

10       ~~(3) Whether the child was in foster care or in the home of his~~  
11       ~~or her parent or guardian at the time of death.~~

12       ~~(4) Whether an investigation is being conducted by a law~~  
13       ~~enforcement agency or the county child welfare agency.~~

14       ~~(b) All cases in which abuse or neglect leads to a child's death~~  
15       ~~shall be subject to the disclosures required in subdivision (c). Abuse~~  
16       ~~or neglect is determined to have led to a child's death if one or~~  
17       ~~more of the following conditions are met:~~

18           ~~(1) A county child protective services agency determines that~~  
19           ~~the abuse or neglect was substantiated.~~

20           ~~(2) A law enforcement investigation concludes that abuse or~~  
21           ~~neglect occurred.~~

22           ~~(3) A coroner or medical examiner concludes that the child who~~  
23           ~~died had suffered abuse or neglect.~~

24       ~~(c) Upon completion of the child abuse or neglect investigation~~  
25       ~~into the child's death, as described in subdivision (b), the following~~  
26       ~~documents from the juvenile case file shall be released by the~~  
27       ~~custodian of records upon request, subject to the redactions set~~  
28       ~~forth in subdivision (e):~~

29           ~~(1) All of the information specified in subdivision (a).~~

30           ~~(2) For cases in which the child's death occurred while living~~  
31           ~~with a parent or guardian, all previous referrals of abuse or neglect~~  
32           ~~of the deceased child while living with that parent or guardian~~  
33           ~~shall be disclosed along with the following documents:~~

34               ~~(A) The emergency response referral information form and the~~  
35               ~~emergency response notice of referral disposition form completed~~  
36               ~~by the county child welfare agency relating to the abuse or neglect~~  
37               ~~that caused the death of the child.~~

38               ~~(B) Any cross reports completed by the county child welfare~~  
39               ~~agency to law enforcement relating to the deceased child.~~

~~(C) All risk and safety assessments completed by the county child welfare services agency relating to the deceased child.~~

~~(D) All health care records of the deceased child, excluding mental health records, related to the child's death and previous injuries reflective of a pattern of abuse or neglect.~~

~~(E) Copies of police reports about the person against whom the child abuse or neglect was substantiated.~~

~~(3) For cases in which the child's death occurred while the child was in foster care, the following documents in addition to those specified in paragraphs (1) and (2) generated while the child was living in the foster care placement that was the placement at the time of the child's death:~~

~~(A) Records pertaining to the foster parents' initial licensing and renewals and type of license or licenses held, if in the case file.~~

~~(B) All reported licensing violations, including notices of action, if in the case file.~~

~~(C) Records of the training completed by the foster parents, if in the case file.~~

~~(d) The documents listed in subdivision (c) shall be released to the public by the custodian of records within 10 business days of the request or the disposition of the investigation, whichever is later.~~

~~(e) (1) Prior to releasing any document pursuant to subdivision (c), the custodian of records shall redact the following information:~~

~~(A) The names, addresses, telephone numbers, ethnicity, religion, or any other identifying information of any person or institution, other than the county or the State Department of Social Services, that is mentioned in the documents listed in paragraphs (2) and (3) of subdivision (c).~~

~~(B) Any information that would, after consultation with the district attorney, jeopardize a criminal investigation or proceeding.~~

~~(C) Any information that is privileged, confidential, or not subject to disclosure pursuant to any other state or federal law.~~

~~(2) (A) The State Department of Social Services shall promulgate a regulation listing the laws described in subparagraph (C) of paragraph (1) and setting forth standards governing redactions.~~

~~(B) Notwithstanding the rulemaking provisions of the Administrative Procedure Act (Chapter 3.5 (commencing with~~

1 Section 11340) of Part 1 of Division 3 of Title 2 of the Government  
2 Code); until emergency regulations are filed with the Secretary of  
3 State, the State Department of Social Services may implement the  
4 changes made to Section 827 and this section at the 2007-08  
5 Regular Session of the Legislature through all-county letters or  
6 similar instructions from the director. The department shall adopt  
7 as emergency regulations, as necessary to implement those changes,  
8 no later than January 1, 2009.

9 (C) The adoption of regulations pursuant to this paragraph shall  
10 be deemed to be an emergency necessary for the immediate  
11 preservation of the public peace, health, safety, or general welfare.  
12 The emergency regulations authorized by this section shall be  
13 exempt from review by the Office of Administrative Law. The  
14 emergency regulations authorized by this section shall be submitted  
15 for filing with the Secretary of State and shall remain in effect for  
16 no more than 180 days, by which time the final regulations shall  
17 be adopted.

18 (f) Upon receiving a request for the documents listed in  
19 subdivision (e), the custodian of records shall notify and provide  
20 a copy of the request upon counsel for any child who is directly  
21 or indirectly connected to the juvenile case file. If counsel for a  
22 child, including the deceased child or any sibling of the deceased  
23 child, objects to the release of any part of the documents listed in  
24 paragraphs (2) and (3) of subdivision (e), they may petition the  
25 juvenile court for relief to prevent the release of any document or  
26 part of a document requested pursuant to paragraph (2) of  
27 subdivision (a) of Section 827.

28 (g) Documents from the juvenile case file, other than those listed  
29 in paragraphs (2) and (3) of subdivision (e), shall only be disclosed  
30 upon an order by the juvenile court pursuant to Section 827.

31 (h) Once documents pursuant to this section have been released  
32 by the custodian of records, the State Department of Social Services  
33 or the county welfare department or agency may comment on the  
34 case within the scope of the release.

35 (i) Information released by a custodian of records consistent  
36 with the requirements of this section does not require prior notice  
37 to any other individual.

38 (j) Each county welfare department or agency shall notify the  
39 State Department of Social Services of every child fatality that  
40 occurred within its jurisdiction that was the result of child abuse

1 or neglect. Based on these notices and any other relevant  
2 information in the State Department of Social Services' possession,  
3 the department shall annually issue a report identifying the child  
4 fatalities and any systemic issues or patterns revealed by the notices  
5 and other relevant information. The State Department of Social  
6 Services, after consultation with interested stakeholders, shall  
7 provide instructions by an all-county letter regarding the procedure  
8 for notification.

9 (k) For purposes of this section, the following definitions apply:

10 (1) "Child abuse or neglect" has the same meaning as defined  
11 in Section 11165.6 of the Penal Code.

12 (2) "Custodian of records," for the purposes of this section and  
13 paragraph (2) of subdivision (a) of Section 827, means the county  
14 welfare department or agency.

15 (3) "Juvenile case files" or "case files" include any juvenile  
16 court files, as defined in Rule 5.552 of the California Rules of  
17 Court, and any county child welfare department or agency or State  
18 Department of Social Services records regardless of whether they  
19 are maintained electronically or in paper form.

20 (4) "Substantiated" has the same meaning as defined in Section  
21 11165.12 of the Penal Code.

22 (l) A person disclosing juvenile case file information as required  
23 by this section shall not be subject to suit in civil or criminal  
24 proceedings for complying with the requirements of this section.

25 (m) This section shall apply only to deaths that occur on or after  
26 January 1, 2008.

27 (n) Nothing in this section shall require a custodian of records  
28 to retain documents beyond any date otherwise required by law.

29 (o) Nothing in this section shall be construed as requiring a  
30 custodian of records to obtain documents not in the case file.